

ITEM NO. 6

September 30, 2005

ERRATA SHEET

Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for  
Subsurface Disposal System Use

Ronald and Maria Salony  
17808 Valencia Avenue, Fontana, San Bernardino County, APN 0246-121-64

For the  
Santa Ana Region

(Language added is **boldface**)

(Language deleted is ~~struck out~~)

1. Page 1 of Staff Report, revise paragraph 1, sentence 4 thru 8, as shown:

Mr. And Mrs. Salony own and reside..... tank-subsurface disposal system. ~~Also existing on the lot is a detached garage that is currently being converted to a second dwelling unit.~~ Mr. and Mrs. Salony ~~purchased the lot/home with the intention of converting the garage into~~ **constructed** a second dwelling unit **on their lot** for ~~his~~ **Mr. Salony's** mother to reside in. **The Salons installed a second septic system to serve** ~~The second dwelling unit is connected to the existing septic system.~~ The County of San Bernardino Building and Safety Division stopped the ~~garage conversion~~ **second home construction** and required Mr. and Mrs. Salony to get the necessary approvals from agencies involved with the project.

2. Page 2 of Staff Report, revise paragraph 1, last sentence, as shown:

The MSLRs also exempt additions to existing dwellings. The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single-family residence on the property. In this case, the purpose of the ~~garage conversion into a second dwelling unit~~ is to provide a home for Mr. Salony's mother.

3. Page 2 of Staff Report, revise paragraph 2, as shown:

Michael Rhoden of San Bernardino County Building and Safety advised Board staff that the ~~garage conversion and connection to the existing~~ **construction of the second dwelling unit and installation of the second** septic system was done without prior approval. ~~Mr. Salony's garage conversion was started after his purchase of the property in 2000.~~ Mr. Salony is now confronted with the need to satisfy County requirements.

4. Page 2 of Staff Report, revise paragraph 4, sentence 3, as shown:

While it is true that there would be ..... from the minimum lot size requirements. Therefore, Mr. Salony has offered to remove the fixture units and cap off the connection of the second home to the **second** septic system once it is no longer required for his mother's use.

5. Page 2 and 3 of Staff Report, revise recommendation 1) & 3), accordingly as shown:

1) Once the second home is no longer required for use of the Salony family, the fixture units will be removed from the home and ~~the connection to the~~ **second** septic system will be ~~eliminated (capped off)~~ **abandoned**; and

3) If Mr. & Mrs. Salony locate and implement an acceptable offset, the Agreement of Restriction ~~may~~ **shall** be removed, allowing the continued use of the second home on their property even after use of Mr. Salony's mother.

California Regional Water Quality Control Board  
Santa Ana Region

September 30, 2005

STAFF REPORT

ITEM: 6

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Ronald and Maria Salony, 17808 Valencia Avenue, Fontana, San Bernardino County, APN 0246-121-64

DISCUSSION:

Mr. and Mrs. Salony own and reside in a house located on a 0.21-acre lot at 17808 Valencia Avenue, Fontana. This area of Fontana is unsewered. The existing house is currently connected to an existing septic tank-subsurface disposal system. Also existing on the lot is a detached garage that is currently being converted to a second dwelling unit. Mr. and Mrs. Salony purchased the lot/home with the intention of converting the garage into a second dwelling unit for his mother to reside in. The second dwelling unit is connected to the existing septic system. The County of San Bernardino Building and Safety Division stopped the garage conversion and required Mr. and Mrs. Salony to get the necessary approvals from agencies involved with the project. On August 22, 2005, Ronald Salony contacted staff requesting an exemption from the Board's minimum lot size requirements for the use of a second home utilizing septic tank-subsurface disposal system on his lot.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region. Mr. Salony's proposed development is a new development as defined in Resolution No. 89-157 and is therefore subject to the minimum lot size requirements specified therein. With a density of 0.105 acres per dwelling unit, Mr. Salony's proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. Salony's request for an exemption from the minimum lot size requirements.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that it was appropriate to distinguish between "existing" developments using subsurface disposal systems, (i.e., those already in place or approved at the time the MLSRs were adopted), and "new" developments. Thus, the Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems had been installed by September 7, 1989 or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. The one-half acre requirement applies only to "new" developments.

The MSLRs also exempt additions to existing dwellings. The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single-family residence on the property. In this case, the purpose of the garage conversion into a second dwelling unit is to provide a home for Mr. Salony's mother.

Michael Rhoden of San Bernardino County Building and Safety advised Board staff that the garage conversion and connection to the existing septic system was done without prior approval. Mr. Salony's garage conversion was started after his purchase of the property in 2000. Mr. Salony is now confronted with the need to satisfy County requirements.

Mr. Salony notes that the additional flows that would occur as a result of this project would be no greater than the flows that would be allowed if he were to add on to the existing house and replace the existing septic tank to accommodate the increased flows, which would be exempt from the minimum lot size requirement. On this basis, Mr. Salony is appealing to the Regional Board for reversal of staff's denial of an exemption from the minimum lot size requirements.

While it is true that there would be no difference in wastewater flows on an immediate basis, i.e., while Mr. Salony owns the property and his mother resides with him, there can be no guarantee that wastewater flows would not increase considerably in the future. As stated above, it was on this basis that the Board determined not to exempt the construction of new freestanding structures from the minimum lot size requirements. Therefore, Mr. Salony has offered to remove the fixture units and cap off the connection of the second home to the septic system once it is no longer required for his mother's use. Mr. Salony has also agreed to enter into an Agreement of Restriction to be recorded with the property Chain of Title that stipulates that this property may not be sold until the fixture units in the second dwelling are removed and the connection to the existing septic system from the second home is eliminated (capped off).

Board staff has advised Mr. Salony of an option identified in the Board's minimum lot size exemption criteria, which allows project proponents to implement an acceptable offset project. Mr. Salony could continue the use of the second home utilizing septic system on his property if he connected another septic system (that would not otherwise be required to be connected to the sewer) to the sewer. Mr. Salony has been pursuing the offset for his project; however, he has not been able to locate an affordable offset at this time. Mr. Salony plans to continue to locate an affordable offset.

#### **RECOMMENDATION:**

Approve Mr. and Mrs. Salony's request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157 with the following conditions: 1) Once the second home is no longer required for use of the Salony family, the fixture units will be removed from the home and the connection to the septic system will be eliminated (capped off); and 2) Mr. and Mrs. Salony must enter into an Agreement of Restriction, which shall become a part of the Chain of Title, that the fixture units in the second home must be removed prior to sale of the property or whenever the second home is no longer required for the use of Mr. Salony's mother, whichever occurs first; and 3) If Mr. & Mrs. Salony locate and implement an acceptable offset, the

Agreement of Restriction may be removed, allowing the continued use of the second home on their property even after use of Mr. Salony's mother.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon

San Bernardino County Environmental Health Services – Ray Britain

San Bernardino County Building and Safety – Barbara Johnston/Michael Rhoden (B200509140)

